

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

537631

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference NG/22729	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/GB2004/001566	International filing date (day/month/year) 08.04.2004	Priority date (day/month/year) 08.04.2003	
International Patent Classification (IPC) or national classification and IPC B65D81/34			
Applicant FFP PACKAGING SOLUTIONS LIMITED et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> <i>(sent to the applicant and to the International Bureau) a total of sheets, as follows:</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. <p>b. <input type="checkbox"/> <i>(sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</i></p>			
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 			
Date of submission of the demand 28.02.2005	Date of completion of this report 22.03.2005		
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer De Terlizzi, M Telephone No. +49 89 2399-7904 		

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2004/001566

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-6 as originally filed

Claims, Numbers

1-10 received on 02.03.2005 with letter of 28.02.2005

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
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PCT/GB2004/001566

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	1,4,6-10
	No:	Claims	2,3,5
Inventive step (IS)	Yes:	Claims	1,4
	No:	Claims	2,3,5-10
Industrial applicability (IA)	Yes:	Claims	1-10
	No:	Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/GB2004/001566

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following document:

D1: US 2001/036518 A1 (CABLE KEVIN ET AL) 1 November 2001 (2001-11-01)

1. The amendments filed with the letter dated 28.02.2005 introduce subject-matter which extends beyond the content of the application as filed, contrary to Article 34(2)(b) PCT. Claim 2 has been amended by the addition of a statement that the envelope is flexible. However, it is nowhere disclosed, neither in the description nor in the claims as originally filed, that the envelope is flexible. The amendment cannot therefore be allowed.
2. According to Rule 70.2(c) PCT, this report will be established as if the abovementioned amendment had not been, i.e. on the basis of the application as originally filed.
3. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 2 is not new in the sense of Article 33(2) PCT.

The document D1 discloses (the references in parentheses applying to this document):

A package suitable to be placed between the plates of a clam shell heater, the package comprising:

- a sealed envelope (12,14,16,18) of film material, the envelope comprising a first structural layer (14) and a second coating layer (16), the coating layer (16) being heat sealable to seal the envelope, the seals being peelable at a predetermined temperature and internal pressure to vent the package during heating (see paragraph [0024]).

The examiner does not share the applicant's argument, filed with his letter of 28.02.2005, that the container 18 disclosed in document D1 is not suitable for being placed between the plates of a clamshell heater. The fact that the container 18 disclosed in document D1 is rigid does not prevent it from being suitable to be placed between the plates of a clamshell heater.

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The subject-matter of claim 2 is therefore not new (Article 33(2) PCT).

4. Dependent claims 3 and 5 to 10 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, see document D1 and the corresponding passages cited in the search report.

CLAIMS:

1. A method of providing a heated food product comprising: pre-forming food product into a portion having a substantially uniformed pre-determined thickness; sealing the food portion into an envelope formed from a film to produce a package, at least one of the seals of the package being peelable under conditions of elevated temperature and pressure within the envelope to vent the envelope during heating; placing the package between the plates of a clam-shell heater; closing the plates of the clam-shell heater to contact both major faces of the package; heating the food product in the clam-shell heater; removing the food product and envelope from the clam-shell heater; removing the food product from the envelope; and discarding the envelope.
2. A package for carrying out the method of claim 1, the package comprising: a food product contained within a sealed envelope of film material, the envelope being flexible and comprising a first structural layer and a second coating layer, the coating layer being heat sealable to seal the envelope, the seals being peelable at a predetermined temperature and internal pressure to vent the package during heating.
3. A package according to claim 2 wherein, in addition to the structural layer and the coating layer the film comprises a further layer, preferably a further structural layer of PET.
4. A package according to claim 2 or claim 3 wherein a layer of pigment or indicia is laminated within the film material.
5. A package according to any of claims 2-4 wherein the first structural layer is of PET.
6. A package according to any of claims 2-5 wherein the envelope has a longitudinal sealed seam and transverse end sealed seams and is of generally pillow-like configuration.

7. A package according to any of claims 2-6 wherein the envelope is made in-situ around the food product.
8. A package according to any of claims 2-7 wherein the food product is cooked before the envelope is formed.
9. A package according to any of claims 2-8 wherein the film remains intact at temperatures of up to at least 425°F.
10. A package according to any of claims 2-9 wherein the package is deep frozen.